

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

MAR 13 2008

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

KEVIN R. STRATTON,

Plaintiff,

CIVIL No. 6:07cv00013

v.

ORDER

MICHAEL J. ASTRUE, COMMISSIONER OF
SOCIAL SECURITY,

Defendant

JUDGE NORMAN K. MOON

On November 20, 2007, I referred this case to the Honorable Michael F. Urbanski, United States Magistrate Judge, for proposed findings of fact and a recommended disposition. The defendant had filed a motion to dismiss for lack of jurisdiction arguing that the Complaint was untimely, and on January 15, 2008, the Magistrate Judge filed a Report and Recommendation ("Report"). In the Report, Judge Urbanski recommended that the defendant's motion to dismiss (docket entry no. 8) be granted because this action was filed seventy-four (74) days after the deadline for instituting judicial review of the defendant's final decision and because the plaintiff did not submit evidence contradicting, explaining or avoiding the defendant's evidence after receiving his *Roseboro* notice. After a review of the entire record in this case, and no objection having been filed to the Report within ten days of its service upon the parties, I adopt the Report in its entirety.

Accordingly:

1. the January 15, 2008 Report shall be, and it hereby is, ADOPTED in its entirety;
2. Defendant's motion to dismiss (docket entry no. 8) is hereby GRANTED;
3. the Commissioner's final decision is hereby AFFIRMED; and

4. this case is hereby DISMISSED and STRICKEN from the Court's docket.

The Clerk of the Court hereby is directed to send a certified copy of this Order to all counsel of record.

It is so ORDERED.

ENTER: This 13th day of March, 2008.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE